

## SUMMARY OF FINAL DECISIONS ISSUED BY THE TRADEMARK TRIAL AND APPEAL BOARD

**September 8-12, 2003**

Date Issued	Type of Case(1)	Proceeding or Appn. No.	Party or Parties	TTAB Panel(2)	Issue	TTAB Decision	Opposer's or Petitioner's Mark and Goods or Services	Applicant's or Respondent's Mark and Goods or Services	Mark and Goods Cited by Examining Attorney	Examining Attorney	Citable as Precedent of TTAB
9-8	EX	75/777,087	Universal Premium Acceptance Corp.	Chapman* Holtzman Drost	2(d)	Refusal Affirmed as to both cited registrations		"e-PFA" [electronic transmission of insurance premium financing information]	2 cited registrations, owned by two different entities: "PFA EXPRESS" [commercial premium finance administrative services in the nature of providing financial rates and terms, for use by others] and "Epfa" [mortgage lending services]	Webster	No
9-8	EX	76/196,190	Titan Technologies Int'l, Inc.	Seeherman* Hairston Bucher	2(d)	Refusal Affirmed		"TITAN TECHNOLOGIES INTERNATIONAL, INC." [power tools, namely, power wrenches; wholesale distributorships and on-line retail store services, both featuring power wrenches; technical consultation in the field of power wrenches]	"TITAN TOOLS" (and design) [oil field hand tools and instruments, namely, tongs, wrenches, swivels, flange spreaders, pipe dollies, and wire guide lines]	Pappas	No
9-9	EX (R)	75/160,194	Speedway Motorsports, Inc.	Cissel* Chapman Drost	2(e)(1)	Second Request for Reconsideration Denied (Refusal Affirmed as to goods in Class 25 and services in Class 41)		"TEXAS INTERNATIONAL RACEWAY" [clothing, namely, sweatshirts, warm-up sets, shorts, shirts, sport shirts, golf shirts, t-shirts, suspenders, sweaters, jackets, headbands, caps, visors, straw hats, socks and infant sets, in Class 25; entertainment services in the nature of conducting motor vehicle races and exhibitions, in Class 41]		Cain	No

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9-9	EX	75/916,474	K2, Inc.	Hohein* Bottorff Drost	2(e)(1)	Refusal Reversed		"STORM BOARD" [weather-resistant exterior wall board constructed from directionalized wood fiber pressure laminated in treated plies sold for use in the construction of pre-fabricated or manufactured housing]		Lincoski	No
9-9	EX	76/411/536	Kupa, Inc.	Cissel* Seeherman Bucher	whether applicant's specimens show trademark use of its claimed mark	Refusal Affirmed		"The Color PURPLE" [electric nail filing machine]		Verhosek	No
9-9	EX	75/152,131	Rosen Product Develop- ment	Cissel* Seeherman Drost	Section 6(a) disclaimer requirement (of the term SLIM-LINE); whether applicant's identification of goods is sufficiently definite	Refusal Affirmed on both grounds		"ULTRA SLIM-LINE" [computer accessories, namely, hardware systems for mounting monitors]		C.P. Cataldo	No
9-9	EX	78/082,130	D'Andrea Family Ltd. Partnership	Simms Cissel* Drost	2(d)	Refusal Affirmed		"APOLLO RIDGE" [wine]	"APOLLO" [wine]	Kline	No
9-9	EX	78/070,590	The Sherwin- Williams Co.	Hanak Hairston* Holtzman	2(e)(1)	Refusal Reversed		"PAINTER'S PREFERRED" [caulking and adhesive sealants for general use]		Clayton	No

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9-9	EX	75/583,411	Symbio Herborn Group GmbH & Co.	Hanak Bucher* Holtzman	2(d)	Refusal Affirmed		"SYMBIO LACT" (and design) [pharmaceutical and veterinary products, namely, biological cultures and media for use in the production of nutritional additives for medical, veterinary, and sanitary purposes and for the care of health, such nutritional additives consisting of or containing bacterial and/or enzyme preparations; vitamin preparations, roughage and mineral-food supplements, namely, nutritional supplements, vitamins, mineral supplements and nutritional additives for animal and human food; preparations of trace elements for human and animal use, namely, nutritional supplements and/or trace elements for medical, veterinary, and sanitary purposes and for the care of health]	"SYMBIO" [drug product (preparation in capsule form) for veterinary use to combat infection]	Spils	No
9-9	EX	78/074,430	Trademark Management Company	Seeherman Hairston* Rogers	2(e)(1)	Refusal Affirmed		"QUESADILLA BITES" [frozen, packaged or prepared Mexican foods, namely, flour tortillas with chicken, beef or cheese fillings]		Masterson	No

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9-9	EX	76/069,748	Warrantynet Corp.	Cissel* Seeherman Chapman	2(e)(1); whether applicant stated a proper statutory basis for its application for registration	Refusal Affirmed on both grounds as to all three classes of goods and services		"WARRANTYNET" [ <i>In Class 9</i> : computer e-commerce software to allow users to perform electronic business transactions via a global computer network in the field of warranties and warranty-related information, <i>etc.</i> ; <i>In Class 38</i> : electronic transmission of messages and data, <i>etc.</i> ; <i>In Class 42</i> : computer consultation services in the area of design, development, and installation of electronic commerce applications, namely, shopping cart applications, electronic marketplaces, purchasing agents, and functionalities for the registration, browsing, comparison, purchase, retail sale, processing and management of warranties and warranty-related information, <i>etc.</i> ; technical support services, namely, troubleshooting of computer hardware and software problems via telephone, e-mail and in person]		Umanski	No

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9-10	EX	76/241,557	Valley Research, Inc.	Walters Chapman* Bucher	2(d)	Refusal Affirmed		"TAKA-DIASTASE" [enzymes for the food industry, namely, an enzyme preparation for digesting starch]	"TAKA-SWEET" [glucose isomerase enzyme for use by the food industry]	Snapp	No
9-10	EX	76/221,729	Marigold Commodities Corp.	Cissel* Hanak Holtzman	2(d)	Refusal Affirmed		"TERESITA'S" (and design) [spices, namely, garlic powder, peppercorns, ground pepper; soy sauce, hot sauce, gravy, salsa]	"CONDIMENT ESPIGA DE TERESITA EXCELLENT FOR RICE, SOUPS, STEWS, CHICKEN, MEAT & FISH" (and design) [condiments, namely, seasoning for foods]	DuBois	No
9-10	EX	76/007,654	Kiss My Face Corp.	Simms Hanak Rogers*	2(d)	Refusal Affirmed		"SILKY SOFT" [facial lotions, facial soaps, hair conditioning rinses, shampoos, liquid hand soaps, and shaving creams]	<i>2 cited registrations, both owned by the same entity:</i> "SOF'N SILKY" and "SOFT'N SILKY" [both marks registered for non-medicated baby powder]	Reihner	No
9-11	EX	75/782,740	First Principles, Inc.	Cissel Hairston Drost*	2(d)	Refusal Affirmed		"ESP" [conducting classes, seminars, and individualized instruction in the field of the psychological methodologies of learning and facilitating how to develop the psychological habits for success therefrom]	"ESP" [educational services, namely, providing instructions to improve social skills, personal presentation and communication]	Bodson	No

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9-11	EX	76/291,151	Paul Hartmann AG	Bucher Rogers Drost*	2(d)	Refusal Affirmed		"OMNITAPE" [medicated plasters, materials for surgical and medical dressings, bandages and bands for medical use, namely, gauze, medicated gauze, and adhesive tape bandages]	"OMNI-TAPE" [hook-and-loop fasteners that adhere upon self-contact, for use in or as medical splints, etc.; breathable liner padding incorporating such hook-and-loop fasteners, for medical use; medical splints, straps, and belts for medical use, namely, restraint of the limbs and/or body in connection with operating tables, etc.]	I.A. Clarke	No
9-11	OPP	111,517	Applebee's International, Inc. v. Societe Des Produits Nestle S.A.	Simms Cissel Hairston*	2(d)	Opposition Sustained	"SKILLET SENSATIONS" (in stylized form) [prepared entrees served in restaurants, consisting primarily of meats, poultry or fish with vegetables]	"SKILLET SENSATIONS" [frozen prepared dinner mix consisting of meat, vegetables and potatoes with rice or pasta]			No
9-11	EX	78/015,453	Spicer Technology, Inc.	Simms Seeherman Walters*	2(d)	Refusal Reversed		"TXT" [axles for use with on-highway vehicles]	"TXT" [electric and gasoline powered cars used as plan personnel carriers, baggage carriers, general utility and maintenance cars, motel and resort cars, golf cars and structural parts therefor]	Gartner	No

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9-11	EX	78/013678	Microsoft Corp.	Cissel Holtzman Rogers*	2(d); 2(e)(1)	Refusal Affirmed on both grounds		"OFFICE.NET" [a wide range of computer software and hardware products]	"OFFICENET" [various items of computer hardware and software]	B.T. Brown	Yes
9-11	CANC	30,464	Quality Systems, Inc. v. Permacrete Systems Ltd.	Simms Seeherman* Hairston	2(d); affirmative defenses of acquiescence and laches	Petition to Cancel Granted	"PERMA•CRETE" [cementitious products for resurfacing concrete, masonry, aggregate, stucco, wood, steel, and other such surfaces]	"PERMACRETE" [construction, restoration, and repair services, namely concrete construction, cleaning, sealing, sawcutting, core drilling and grooving; preparation of concrete admixtures and design mixes formulated to customer specifications; finishing and curing services relating to the restoration and repair of concrete surfaces, <i>etc.</i> ; preparation and cleaning of concrete, steel and asphalt surfaces, namely, sandblasting, <i>etc.</i> ]			No
9-11	EX	76/397,967	The New Zealand Micro-Creamery, Inc.	Seeherman* Walters Drost	2(e)(1)	Refusal Reversed		"KIWI'S" [restaurant services featuring non-alcoholic beverages and dessert products]		Foster	No
9-12	EX (R)	76/218,190	NFE, Inc.	Simms* Holtzman Drost	2(e)(1)	Request for Reconsideration Denied (Refusal affirmed)		PUMP GUARD [enclosures in the nature of fiberglass laminate material with and without insulation for environmental protection of above ground pumps and plumbing]		Amos	No

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9-12	EX	76/243,246	Virtual Physical, Inc.	Hohein* Walters Chapman	Section 6 disclaimer requirement (of words VIRTUAL PHYSICAL)	Refusal Affirmed		"VIRTUAL PHYSICAL" (and design) [medical services rendered via CAT scan imaging centers]		Goodsaid	No
9-12	CANC CANC	30,015 30,164	Great Mother's Goods, Inc. v. Lynette M. Hegeman	Cissel Walters* Drost	2(d)	Petition to Cancel Granted	"BELLY BUTTER" and "GREAT MOTHER'S BELLY BUTTER" [both marks for non-medicated herbal salve/ointment]	"BELLY BUTTER" [cosmetic skin cream for pregnant women] and "BELLYBUTTER" [non-medicated herbal body salve/ointment]			No
9-12	EX	76/226,454	Lehman Brothers Inc.	Seeherman Chapman Rogers*	2(d)	Refusal Affirmed		"RANGERS" [investment brokerage services, namely, brokerage of an equity linked note]	"RANGER" [underwriting and servicing insurance]	Linnehan	No

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